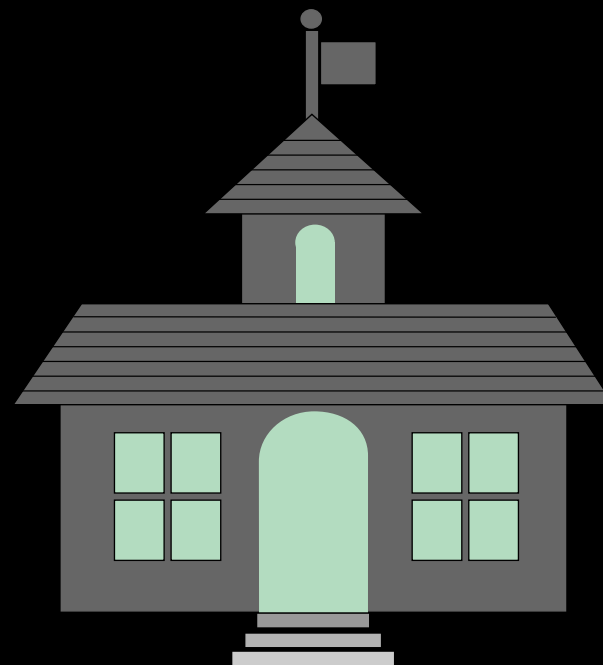


THE GUN FREE-SCHOOLS ACT OF 1994



*"It's time to stop making excuses
about violence in schools"*



“Guns have no place in the hands of our children or in the hallways and classrooms of their schools. Children should be able to go to school without fearing for their safety. Our schools should be safe havens--places where children escape the violence that engulfs so many of their lives. The time has come to remove guns from the schools of America.”

◆ *Senator Dianne Feinstein*
August 10, 1994

Senators Dianne Feinstein of California and Byron Dorgan of North Dakota cosponsored legislation to remove guns from all public schools in America. The legislation requires school districts that receive federal funds to adopt a gun-free school policy and expel for one year students who carry a gun to school. **The Gun-Free Schools Act** was signed into law on October 22, 1994 as part of the Elementary and Secondary Education Act of 1994, which provides \$12 billion in federal funding for public schools over five years.

WHAT THE BILL DOES

The **Gun-Free Schools Act** of 1994:

1. Requires schools to **expel for at least one year students** who are caught carrying a gun;
2. Mandates that public schools which receive federal funding **adhere to the gun-free policy**, or risk losing their funding;
3. Requires schools to **report campus gun incidents** to their state education agencies, including the number of incidents on campuses each year and which type of guns are used;
4. **Gives schools discretion** to modify the expulsion policy on a case-by-case basis should extenuating circumstances exist;
5. **Strengthens existing local and state laws** punishing students who bring guns to school. The Los Angeles Unified School District, for example, already has an expulsion policy, but it does not specify a minimum length of time.

WHY WE NEED A GUN-FREE SCHOOLS ACT

In schools around the country, guns are a fact of everyday life, used to settle even the most minor disputes; name-calling or even a sideways glance can end in death. Our teachers spend too much time policing school hallways and too little time teaching in classrooms.

In 1994 alone:

- ◆ **135,000 guns** were brought to school **everyday** throughout the country, according to the National Education Association;
- ◆ **One out of every five** children regularly carried a firearm, knife or club to school;
- ◆ **32 of the nation's 44 largest school districts** used either hand-held or walk-through metal detectors on their campuses.

We have a responsibility to provide a gun-free learning environment for students. That's why we must adopt a "**zero-tolerance**" policy to keep schools gun-free. Our schools should simply be places where children learn, explore and grow.

San Francisco Chronicle November 13, 1993
**7-Year-Old Takes Loaded Gun
To School, Threatens Classmate**

Washington Post August 17, 1994

**Teen Wouldn't Give Up Gun,
Teacher Says**

Trial Starts in Shooting At Largo High School

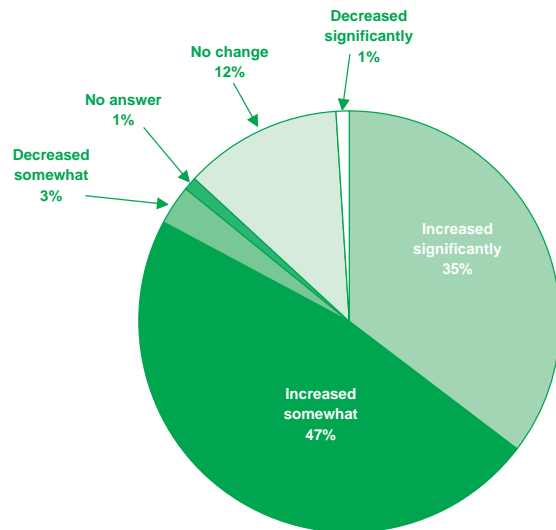
THE PROBLEM OF GUNS IN SCHOOLS IS RAMPANT

Since 1990, shootings or hostage situations in schools have occurred in at least 35 states and the District of Columbia.

In a recent survey of 758 male students from inner-city schools in California, New Jersey, Louisiana and Illinois, the Justice Department found:

- ◆ 45% of the students said they had been **threatened** with a gun, or had been **shot** at on the way to or from school;
- ◆ 22% said they **owned** a gun;
- ◆ 15% said they **owned three or more guns**.

According to the National School Boards Association, **82% of the nation's school districts believe student violence has increased**, either significantly or somewhat, in the last five years.



IN CALIFORNIA

Guns are not only found in inner city schools. According to the Harvard School of Public Health, **58% of suburban students** say they can get a handgun if they wanted one.

More and more firearms and other weapons are being brought to campuses throughout California. School districts in **Orange County**, for example, reported **440 weapons** incidents in the 1988-89 school year, the last year such records were kept. In **Modesto**, **119 students were expelled** in 1993 for bringing weapons to school, and **169 students** were caught bringing weapons to schools in **Ventura County**.

Guns Found in the 1993 school year:

- ◆ **Oakland** school officials confiscated **60 guns**
- ◆ **Fresno** school officials confiscated **43 guns**
- ◆ **San Jose** school officials confiscated **175 guns**
- ◆ **Los Angeles** school officials confiscated **256 guns**
- ◆ **Long Beach** school officials confiscated **37 guns**
- ◆ **San Diego** school officials confiscated **30 guns**

Unfortunately, guns in our schools cause much more than expulsions. **Innocent students have been injured or killed by other gun-toting students.**

According to the Center for Handgun Control, between 1986 - 1990:

- ◆ **71 people** (including 66 students) were **killed** by guns in schools;
- ◆ **201 adults and students** were **wounded** by guns on campus.

Since 1993, guns at schools resulted in at least **35 deaths** and **92 injuries** nationwide.

THE EFFECTS OF VIOLENCE ON OUR YOUTH

Recently, in a classroom in Los Angeles, I asked fifth-graders if they had ever heard gunshots. Every single hand went up. Not even their schoolyard was immune. Children are afraid to go to school. The National School Boards Association reports that some **160,000 children are absent from school everyday because they fear physical harm.** Our students simply cannot learn in an environment where fear is prevalent.

The fact is, too many of our public schools have become armed camps. Congress can improve the quality of education in this country. But it cannot do so if students fear being killed in their classrooms.

Studies show that children exposed to violence are nearly twice as likely as their classmates to show significant signs of:

- ◆ **depression**
- ◆ **low self-esteem**
- ◆ **excessive crying**
- ◆ **worries about dying or being injured.**

Today, 35% of American school children believe they are likely to be shot down by gunfire.

Students with guns aren't likely to be at the head of the class. They're the ones who disrupt class, terrorize the schoolyard and torment their classmates.

"I'm scared--I'm still scared," Glenn Browne Jr., a Los Angeles high school student, told a reporter after he was mistakenly shot by a gang member who was looking for someone else. "I'm scared that they will come back and get me. I think about my body (and) how messed up I am. I can't play football or any sports at all."

ZERO-TOLERANCE WORKS

Some call this legislation drastic. I call it common sense. In fact, a similar policy had already been adopted by many California school districts, including those in Los Angeles, San Diego, Orange County, Fresno, Modesto and Sacramento. So far, the results of gun-free policies are impressive.

Number of students expelled for carrying guns to "zero tolerance" schools during the 1993-94 academic year:

- ◆ In the Los Angeles Unified School District, **gun incidents decreased 65%** (from 256 gun expulsions last year to 166);
- ◆ In the San Diego Unified School District, **gun incidents decreased by half** (from 30 gun expulsions last year to 15).

Before passage of the Gun Free Schools Act, many states had various disciplinary policies for firearms on campus, but these individual state laws differed greatly. That is why one federal policy is necessary -- so all of our nation's youngsters can learn in safety.



Senator Feinstein meeting with school children in San Francisco.

Teachers' Union Wants to Expel Students Who Carry Guns

ANAHEIM, Calif., July 18 (AP) — The American Federation of Teachers today urged the nationwide adoption of a policy of expelling teen-agers who take drugs or weapons to school or assault someone there.

"There has to be a message we are not going to tolerate certain behaviors," John Cole, little president Texas Federation of Teachers, said at the national group's convention here. The policy endorsed by the convention, called "zero tolerance," is already used in several school districts in Texas and includes establishing alternative schools for expelled students.

the Elementary and Secondary Education Act, would allow it to influence virtually every school district in the nation.

At its convention, the teachers group called for a national conference on school safety and violence and greater distribution of programs and curriculum that have been proved effective in teaching students how to solve conflicts peacefully.



"Our nation's schoolgrounds have become dangerous and, all too often, deadly places. Guns are becoming as commonplace as pencils and books in America's classrooms. It is our duty to make sure students can learn in a gun-free environment. That's why gun-free school policies with mandatory one-year expulsions for gun-toting students have been endorsed by the American Federation of Teachers and the Los Angeles Times. Not allowing a student back to their school for one year may sound strict, but we cannot forget about those students who will never return to us because they were shot and killed at school. Only when our nation's school children are safe in the classroom will they be able to excel academically in the classroom."

◆ **Senator Dianne Feinstein**

Los Angeles Times August 10, 1994

California's more lenient state law, should become the norm in California and elsewhere. Sen. Dianne Feinstein (D-Calif.) has sponsored legislation that would deny federal assistance to schools that do not require expulsion of students found with firearms on campus. Her bill now allows some flexibility on expulsion on a case-by-case basis. This provision is currently part of the larger Elementary and Secondary Education Act, which awaits Senate action.

Both Feinstein's bill and the L.A. district's zero-tolerance policies allow school officials enough latitude to protect innocent students. For example, students who discover that classmates have, as a prank, planted a gun in their backpack or locker will not warrant expulsion. But when due process has been served, the needs of students to be safe in school must continue to take precedence.

STATE LAWS VARY

While every state has expulsion guidelines for school districts, there was no consistent policy for expelling students who carry firearms to school previous to passage of the **Gun-Free Schools Act**. Policies range from one year expulsions for pupils with guns to mere suspensions, or no wording whatsoever for any weapons on campus or time-lines for the length of expulsion:

ALABAMA provides that local school boards may prescribe rules which may remove pupils whose presence in the class may be detrimental to the best interest and welfare of the pupils as a whole (§16-1-14).

ALASKA specifies that a school age child may only be suspended from or denied admission to the public school for certain causes such as behavior that is inimicable to the welfare, safety, or morals of other pupils or conviction of a felony after which attendance is determined to be inimicable to the welfare, safety, or morals of other pupils (§14.30.045).

ARIZONA provides that a pupil may be expelled (permanent withdrawal of the privilege of attending school) for such causes as continued open defiance of authority, habitual profanity, vulgarity or, if the pupil is 16 years or older, excessive absenteeism (§15-840, 15-841).

ARKANSAS provides that the board of trustees may expel any pupil whose longer continuance in the school would be injurious to the school (§6-43-215). Also, authorizes any school official who discovers any gun or illegal drug or other contraband in any school owned property assigned to the use of an identifiable student, to discipline, expel, discharge or prosecute at the school officials discretion (§6-21-608).

CALIFORNIA provides that a student must be recommended for expulsion, under most circumstances, for possession or furnishing any firearm, knife, explosive or other dangerous object within a school or at a school activity off school grounds (Education Code §48915). Defines expulsion as meaning the

removal of a pupil from the immediate supervision and control or the general supervision of school personnel (Education Code §48925).

COLORADO authorizes the expulsion of students for a period of no longer than the end of the school year in which the prohibited conduct occurred; provides that expulsion will be mandatory for carrying, bringing, using or possessing a deadly weapon in a school building or on school property (§§22-33-105, 22-33-106).

CONNECTICUT authorizes the local or regional boards of education to expel “any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process or is violative of a publicized policy of such board” for a period of not less than ten consecutive school days, but no more than 180 consecutive school days. Expelled students between the ages of 16 and 18 must be offered an “alternative educational opportunity (§§10-233a, 10-233d).

DELAWARE Provides that any pupil 16 years of age or older who is truant on more than 3 separate occasions during 1 school year may be expelled from school by the board of education for the remainder of the school year (14 §2709). In any case where a public school student is expelled from a school district the expelled student shall not be permitted to re-enroll in any other school district in this state until after the full period of expulsion from the school district where he was expelled shall have expired (14 §4130). Students possessing weapons on school property must be immediately suspended, referred to the school

district’s alternative program for counseling and reported to police; later, after a parental conference, a school district can impose a longer suspension or expulsion where appropriate (14 §4112).

FLORIDA provides that the school board of each district is required to enforce the law by expelling any pupil in any elementary or secondary school who refuses or neglects to observe the laws, rules and regulations under the authority of the school board (§232.41).

GEORGIA provides that local boards of education may establish by policy, rule, or regulation disciplinary hearing of officers, panels, or tribunals of school officials to impose expulsion. Expulsion means expulsion of a student from a public school beyond the current school quarter or semester (§20-2-751).

HAWAII provides that if for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal with the approval of the district superintendent (§298-11).

IDAHO statute states that the board of trustees may deny attendance at any of its schools by expulsion to any pupil who is an habitual truant, or who is incorrigible or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils (§33-205).

ILLINOIS authorizes the school board to expel pupils who are guilty of gross disobedience or misconduct only after the parents have been requested to appear at a meeting of the board, or with a hearing officer appointed to it, to discuss their child’s behavior (122 §10-22.6).

INDIANA students apparently may be expelled “for the balance of the then current semester or current year...” Provisions are apparently made for students under suspension to enroll in an alternative school or alternative educational program during the expulsion period (§20-8.1-1-1-10). Grounds for

expulsion apply when a student is possessing, firing, displaying or threatening use of firearms, explosives or other weapons on the school premises for any unlawful purpose (§20-8.1-5-4).

IOWA provides that the school board may expel any pupil from school for a violation of the regulations or rules established by the board, or when the presence of the pupil is detrimental to the best interests of the school (§282.4).

KANSAS students may be expelled no longer than the remainder of the current school year in which the prohibited conduct occurred (§72-8902).

KENTUCKY pupils carrying or using weapons or dangerous instruments on school property, as well as off school property at school sponsored activities, constitutes cause for suspension or expulsion from school after specified due process procedures are followed (§158.150).

LOUISIANA students may be expelled for any one of certain specified reasons including carrying firearms, knives, or other implements which can be used as weapons. A student must be expelled until the beginning of the next regular school year, subject to review and approval of the local school board, after being suspended on three occasions for committing any of the offenses enumerated. Notwithstanding any other provision, any student 16 years of age or older, found guilty of being in possession of a firearm on school property, pursuant to a hearing, must be expelled for a minimum period of twelve calendar months; any student who is under 16 years and in grades six through 12 and found guilty of possession of a firearm on school property must be expelled from school for a minimum period of 6 calendar months; students in kindergarten through grade 5 found guilty of possession of a firearm must be referred to the local school board. Students expelled may be readmitted on a probationary basis under certain conditions or may attend a suitable alternative education program (17.416).

MAINE defines a “drop-out” as any person who has withdrawn for any reason except death or

who has been expelled from school before graduation (§5102).

MARYLAND provides that the regulations adopted by a county board may permit suspension, expulsion, or other disciplinary measures that are deemed appropriate (§7-305).

MASSACHUSETTS provides that each school district's policies pertaining to the conduct of students must include disciplinary proceedings, including procedures assuring due process and standards and procedures for suspension and expulsion. Provides that student handbooks for schools with grades 9 through 12 will contain a provision that any student found on school premises or at school sponsored or school related events in possession of a dangerous weapon, including a gun or a knife, may be subject to expulsion from school and that no school or school district within the commonwealth shall be required to admit such student or to provide educational services to that student (71 §37H). A pupil cannot be permanently excluded from the public school without first giving him and his parent or guardian an opportunity to be heard (76 §17).

MICHIGAN law states that the board of education may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience (§380.1311).

MINNESOTA requires that a hearing be held by the school board or its agent prior to the expulsion of any pupil. Written notice of the hearing will include a description of an alternative educational program accorded the pupil prior to the commencement of the expulsion. Also provides that a school board may prepare and enforce an admission or readmission plan for any pupil who is expelled from school (§127.31).

MISSISSIPPI provides that the school board has the power to expel a pupil; a parent has the right of a due process hearing (§37-9-71).

MISSOURI authorizes the school board, after notice to parents and a hearing, to suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or

which tends to impair the morale or good conduct of the pupils (§167.161).

MONTANA authorizes only the trustees of the district to expel a pupil; provides that the trustees of the district are to define the circumstances and procedures by which the trustees may expel a pupil (§20-5-202).

NEBRASKA students may be expelled no longer than the remainder of the current school year in which the prohibited conduct occurred. Provides that a school district that has expelled a student may suspend enforcement for a period of not more than one full semester in addition to the balance of the semester in which expulsion takes place and may, as a condition, assign the student to a school, class etc. deemed appropriate for rehabilitation (§79-4,179).

NEVADA pupils may be suspended or expelled for, among other reasons, possession of a dangerous weapon while on the premises of any public school, or while attending a school sponsored activity or on a school bus, although for the first offense he may be placed in another kind of school for a period not to exceed the equivalent of one semester for that school; for a second occurrence, he must be permanently expelled from the school, but he may be required to attend another kind of school. Any pupil in grades 1-6 may be suspended or expelled only after the board of trustees has reviewed the circumstances and approved the suspension or expulsion (§392.466). Provides that any student expelled under §392.466 is ineligible to attend any public school in this state during the period of that suspension or expulsion but may be allowed to enroll in an alternative program for the education of pupils at risk of dropping out of high school (§392.4675).

NEW HAMPSHIRE authorizes the local school board to dismiss any pupil from school for the gross misconduct or for neglect or refusal to conform to the reasonable rules of the school and such pupil shall not attend school until restored by the local board; such dismissal is subject to review, upon request, prior to the start of each school year (§193:13).

NEW JERSEY students shall be liable to punishment and to suspension or expulsion

from school if, among other offenses, guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him (§18A:37-2).

NEW MEXICO authorizes local school boards, or under special provisions, individual schools within a district, to establish student discipline policies which established rules of conduct and which enumerate possible disciplinary sanctions, including school expulsion (§22-5-4.3).

NEW YORK provides that the board of education of every school district adopt rules and regulations which must include provisions for the suspension, expulsion or other appropriate disciplinary action for the violation of those rules (Education §2801). Provides for the suspension of students of compulsory school age from regular school and establishes special day schools or set apart rooms in public school buildings for the instruction of school delinquents (Education §3214).

NORTH CAROLINA provides that a local board of education may expel any student 14 years of age or older who has been convicted of a felony and whose continued presence in school constitutes a clear threat to the safety and health of other students or employees; this decision is final and subject to judicial review (§115C-391).

NORTH DAKOTA students enrolled in an approved alternative education program may be expelled for a period not to exceed the remainder of the current school term if the student is found to be habitually insubordinate, disobedient or displays disorderly conduct and due process procedures are followed (§15-38-13.2).

OHIO students may be expelled by the superintendent of schools for a period not to exceed the greater of 80 school days or the number of school days remaining in the semester or term in which the incident that gives rise to the expulsion takes place. Under certain circumstances the superintendent may apply any remaining part or all of the period of the expulsion to the following school year. Expulsion may be extended, under certain

circumstances, to an additional eighty days or the number of school days remaining in the school year, whichever is less (§3313.66). The superintendent may permanently exclude a student from attending any public schools in the state if the student is convicted of, or adjudicated a delinquent child for committing, when he was 16 years of age or older, certain specified acts which would be criminal offenses if committed by an adult (§3313.662).

OKLAHOMA allows the board of education to meet in executive session for only specified reasons; one of the reasons listed is to hear evidence and discuss and vote on the expulsion or suspension of a student (§5-118).

OREGON district school boards may authorize the expulsion of a pupil for not more than the current term or semester unless the semester ends within such a short period of time that the expulsion would be too short to be effective. However, the expulsion shall not extend beyond the second term or semester. The district school board is required to offer expelled students an alternative program of instruction combined with counseling (§339.250).

PENNSYLVANIA authorizes the school board to permanently expel a student on account of disobedience or misconduct after a proper hearing (24 §13-1318).

RHODE ISLAND provides that the school committee or a designated school principal may "suspend during pleasure" all pupils found guilty of incorrigibly bad conduct or of violation of the school regulations, or where a student represents a threat to the rights of other students, teachers and administrators. A student has a right to appeal (§16-2-17).

SOUTH CAROLINA local school boards may expel a student for the remainder of the school year and may permanently expel any "incorrigible" student. Certain procedures are specified (§59-63-240).

SOUTH DAKOTA authorizes the school board to expel students for a period no longer than the current school year (§13-32-4).

TENNESSEE authorizes the local school board

to dismiss pupils when the progress or efficiency of the school makes it necessary (§49-2-203). Local school boards may establish alternative schools for students grades 1-6 who have been expelled from the regular school program and at least one alternative school must be established for students in grades 7-12 who have been expelled. Violation of the rules of these alternative schools may result in removal from this school (§49-6-3402).

TEXAS defines expulsion as meaning “suspension of a student from school for more than six school days within a semester. This term does not include removal of a student to an alternative education program.” Provides that a student may be removed from class and expelled, without resort to an alternative education program, if the student while on school property or while attending a school sponsored or school related event and, among other things, possesses a firearm, illegal knife, a certain defined club or certain prohibited weapons. Provides that expulsion may not extend beyond the end of the school year unless the conduct occurs during the final six weeks reporting period of the school year, in which case the expulsion may be extended through the first semester of the next school year (§21.3011).

UTAH requires that a student be expelled from a public school during a school year for any serious violation affecting another student or staff member or occurring in a school building or on school property or in conjunction with any school activity including the possession of a weapon (§53A -11 -904). The local board of education may suspend a student for up to one school year (§53A-11-905). If a student is expelled from a public school for more than ten days the parent is responsible to see that the state’s compulsory education laws are complied with during the period of expulsion (§53A-11 -907).

VERMONT provides that a pupil may be expelled for misconduct when the misconduct makes the continued presence of the pupil harmful to the welfare of the school (16 §1162).

VIRGINIA provides that a “student, who has been expelled from attendance at school by a school board or a private school in the Commonwealth or in another state, for an offense in violation of school board policies related to ... weapons, alcohol or drugs ... may be excluded from attendance by a local school board in Virginia ... for no more than one school year upon a finding that the student presents a danger to the other students or staff....” One school year means no more than 180 teaching days (§22.1-277.2).

WASHINGTON authorizes every board of directors for school districts to expel pupils in accordance with procedural due process guidelines adopted by the state board of education (§28A.600,010). Any student who carries any firearm onto public or private elementary or secondary school premises or school provided transportation or areas of facilities while being used exclusively by public or private schools, will be expelled for an indefinite period of time (§9.41.280).

WEST VIRGINIA provides that any pupil who threatens to cause, attempts to cause, or causes a bodily injury to a school employee may be expelled from school, following certain specified procedures including a hearing held by the county board of education, for a period of time not to exceed one school year (§18A-5-1 a) .

WISCONSIN authorizes the expulsion of pupils for certain specified actions including endangering the property, health and safety of others following certain specified procedural rights (§119.25).

WYOMING authorizes expulsion for certain offenses, within procedural due process, and specifies that no suspension or expulsion shall be for longer than one school year (§21-4-305).

Source: Congressional Research Service, 1994

